REMARKS

Overview

Claims 84-89 and 92-93 are pending in this application. Claims 90-91 have been canceled. Claims 92 and 93 are new. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance are therefore respectfully requested.

Issues Under 35 U.S.C. § 102

Claims 84, 88, and 89 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 6,393,404 to Waters et al. The Applicant respectfully traverses this rejection as Waters does not disclose each and every element of claims 84, 88 and 89.

In particular, claim 84 requires "linking the patient procedure code to the at least one diagnosis code on the first computer at the point of service." Waters does not disclose this limitation. The Examiner erroneously cites to column 3, lines 53-65 in support of his rejection. Column 3, lines 53-65 merely disclose the following:

> "FIG. 3 shows a screen after the medical professional has finished his diagnosis and is now ready to order medical procedures to address the patient's condition. The medical professional would select the medical procedure group to start from in order to select the ordered procedures. One window 70 shows the ordered procedures groups, while another window 80 shows the codes and details of the medical procedures in the selected group. As the medical professional selects the procedures to perform on the patient, those ordered procedures are shown in another window 60. After the medical professional is finished listing the ordered procedures, the system can optimize the ordered procedures for billing."

As is clear from the disclosure of Waters, particularly when one considers column 3, lines 40-65 as a whole, Waters separates the diagnosis from the selection of medical procedures. To be sure, Waters discloses that both medical diagnosis and medical procedures are selected, but

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Waters does not establish the link or relationship between the medical diagnosis and the medical procedures made in the Applicant's claimed invention. In Waters, the healthcare provider selects all the medical diagnosis and then selects all the medical procedures. Waters does not, however, disclose the step of "linking the patient procedure code to the at least one diagnosis code on the first computer at the point of service." Therefore, this rejection must be withdrawn.

It is further observed that Waters discloses a system and method for "optimizing" medical diagnosis and procedure codes in order to determine a lowest reimbursement value combination (Abstract). Therefore, Waters re-codes the medical procedure codes entered by a medical professional for insurance purposes. Not only does Waters not disclose the Applicant's claimed invention, Waters runs directly counter to the Applicant's invention because by linking the procedure codes and the diagnosis codes in the Applicant's invention, a clear record is made of the diagnosis made and procedures performed by the medical professional, including a record of the rationale for performing each procedure (i.e., diagnosis performed by the doctor that led to the decision to perform a particular procedure). Waters does not recognize such a linkage as being important and, in fact, does not only fail to maintain the medical procedure code entered by the healthcare provider, but re-codes the medical procedure codes for insurance reimbursement purposes. Therefore, this rejection must be withdrawn and the Examiner should find claim 84 allowable.

Claims 88 and 89 depend from claim 84. Therefore, these rejections should also be withdrawn as Waters does not disclose each and every element of claim 84.

Issues Under 35 U.S.C. § 103

Claims 85-87 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U. S. Patent No. 6,393,404 to Waters in view of U. S. Patent No. 5,772,585 to Lavin et al.

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As previously explained, Waters does not disclose each and every limitation of claim 84 from which claims 85-87 depends. In particular, Waters does not disclose "linking the patient procedure code to the at least one diagnosis code on the first computer at the point of service." Lavin does not remedy this deficiency. In particular, Lavin discloses that a medical professional can enter diagnosis and procedure codes (column 8, lines 59-column 9, line 40), but Lavin does not disclose linking the patient procedure code and at least one diagnosis code. Lavin merely discloses that both procedure codes and diagnosis codes are entered, but does not disclose that procedure codes and diagnosis codes are linked. Although not specifically raised by the Examiner, the Applicant notes that claim 36 of Lavin discloses a diagnosis history table pointing to a procedure history table. This disclosure, however, fails to meet the required limitation of claim 84 because 84 requires "linking the patient procedure code to the at least one diagnosis code" as opposed to pointing from one table to another. The "linking" required by claim 84 preserves the relationship between the procedure code and the at least one diagnosis code made by the care provider in providing the care. Lavin does not disclose this linking or otherwise preserving the relationship between the patient procedure code and the at least one diagnosis code.

In addition to these deficiencies in the cited references, the Applicant respectfully submits that the Examiner needs to consider the problem recognized by the Applicant and addressed by the Applicant. In re Wright, 838 F.2d 1216, 6 U.S.P.Q.2d 1959, 1961 (Fed. Cir. 1988) ("the problem solved by the invention is always relevant"). In particular, neither reference relied upon by the Examiner discloses the need for a code driven billing and records system, where the medical care provider not only enters the codes, but the manner in which the codes are entered is maintained by linking the patient procedure codes and the diagnosis codes. The Applicant's

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invention is more than merely a data collection system for codes. Rather, the Applicant's invention is code-driven and places the responsibility of selecting diagnosis codes, procedure codes, and the relationship between the diagnosis and medical procedures on the care provider.

Therefore, because neither reference addresses the same problems resolved by the Applicant's claimed invention, there is no proper motivation or suggestion to combine these references to yield the Applicant's invention. Therefore, these rejections to claims 85-87 should be withdrawn on this basis as well.

Claims 90 and 91 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Waters in view of Lavin and Examiner's use of Official Notice. Claims 90 and 91 have been canceled, thereby mooting these rejections.
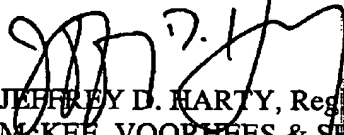
New Claims

Claims 92 and 93 are new. Claim 92 is similar to claim 84. Claim 93 is similar to claim 87. Claim 92 requires that " a record of a care provider defined relationship between the patient procedure code and the at least one diagnosis code is maintained." Support for this amendment is found throughout the specification as originally filed which is clearly directed to a code-driven system as shown in Figures 12 and 13 and described in the specification as originally filed at least at page 21, lines 10-page 23, line 10. It is respectfully submitted that new claims 92 and 93 are patentable over the prior art of record and the Examiner should find these claims allowable as well.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

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Reconsideration and allowance is respectfully requested.

Respectfully submitted,

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